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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,120	03/29/2004	Robert L. Cragg	BMISUSA	1541

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EXAMINER
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ADDIE, RAYMOND W

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 04/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/812,120

**Applicant(s)**

CRAGG, ROBERT L.

**Examiner**

Raymond W. Addie

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 11 and 20 is/are rejected.
- 7) ☒ Claim(s) 7-10 and 12-19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 08/04/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

1. Claim 1 is objected to because of the following informalities:

Claim 1, ln. 9 provides for a "shoe cap carried by said housing and operably connected"; whereas, lns. 10-11 recite "when said shoe cap is urged toward said housing by said leaf tail portion in its bridge closed position".

It is unclear as to how the claimed cap can be urged toward an element it is already "carried by"/connected/attached to. Further, if the leaf tail portion is already "in its bridge closed position"; how can the tail portion urge the shock absorbing assembly toward said housing? Isn't the shock absorbing assembly "urged toward the top of the housing, **while the leaf tail portion is in motion toward the bridge closed position?**

Claim 11, ln. 5, the word "mounded", should be --mounted--.

Claim 18, line. 3, the phrase "and when"; should be --wherein,--

Claim 19, line. 2, the phrase "and when"; should be --wherein,--

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 2, the word "means" is preceded by the word(s) "adjustable" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967). It is indefinite as to what function is performed by an "adjustable means", such that the shoe cap is displaced by said "adjustable means". Further, it is indefinite as to how the "adjustable means" is adjusted, to perform the function of displacing the shoe cap. Still further, claim 1 recites the shoe cap is urged...by said tail portion. Hence, it is unclear as to what element is displacing/urging the shoe cap in claim 2.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Lamont # 503,377.

Lamont discloses a bascule bridge, having a leaf tail (C'), a pivot (d), and a forward span (C) overlying a waterway or the like. Said tail portion extending rearwardly from the pivot (d), and underneath a roadway approach structure (F'). Said bridge comprising:

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A housing (K, k) intended to be mounted side-by-side between said leaf tail (C') and said roadway approach structure (F') when said bridge is in its closed position.

See Figs. 1, 2.

A shock absorbing assembly (K') carried in said housing (K, k).

A shoe cap (k') carried by said housing (K) and operably connected to said shock absorbing assembly (K') to effect resilient displacement of said assembly (K'); When said shoe cap (K1) is urged toward the top (k) of said housing (K, k) by said leaf tail portion (C'); while said leaf tail section is moving toward said bridge closed position.

See Lamont in its entirety.

4. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Lubin # 2,109,797.

Lubin discloses a bascule bridge and equipment, the bridge having a tail portion (32), a pivot (30) and a front leaf (31). Said bridge comprising:

A housing (45) for mounting in side-by-side orientation between said leaf tail portion (32) and a roadway approach structure (48).

A shock absorbing assembly (44, 46) carried in said housing (45).

A shoe cap (unnumbered, referred to as "the heads of the cushion buffers (44)"; see col. 3, Ins. 3-4, and operably connected to said shock absorbing assembly (44,

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46) to effect resilient displacement of said shock absorbing assembly, when said

shoe cap is urged toward the top of said housing by and while said leaf tail portion (32) is moving towards its bridge closed position.

Adjustable means, carried (see col. 3, Ins. 8-10) in said housing, having matingly engaged threads, that are co-operable with a surface structure (locking nut) for selectively displacing the shoe cap relative to said housing, and thereby adjusting a predetermined contact point, where the leaf tail portion (32) first contacts the shoe cap; while bridge is moving towards its closed position.

Wherein said bridge further comprises an additional static stabilizer (70-76) of similar construction, to that of said 1<sup>st</sup> static stabilizer (44-46) for releasably engaging said forward leaf span (31) when said leaf is in said bridge closed position.

5. Claim 11 is rejected under 35 U.S.C. 102(b) as anticipated by Fujimoto et al. # 4,599,834.

Fujimoto et al. discloses a static stabilizer for use with large structures, such as buildings and bridge span structures; to ameliorate shock loading (vibrations) between adjacent bridge span supporting structure, comprising:

A housing (40) having a base and a wall (42) extending upwards from said base to form a chamber.

A plurality of spring washers (54) mounted in said chamber. See Fig. 11.

A shoe cap (46) extending across said housing (40) for forcing said spring washers (54) downwardly, as said shoe cap is compressed. See col. 7, lns. 1-13.

A tie rod, such as screw jack (56) capable of connecting said shoe cap and said housing below said spring washers.

A cylindrical carrier (44) moveably mounted in said housing chamber for containing said spring washers (54) therein.

Whereby, downward displacement of said shoe cap (46) compresses the spring washers (54) therein.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fujimoto et al.

# 4,599,834 in view of Mooney et al. # 3,308,496.

Fujimoto et al. discloses a static stabilizer for dampening/eliminating vibrations between structural elements of large structures. What Fujimoto does not disclose is providing said static stabilizer on bridge piers. However, Mooney et al. teaches it is known to provide buffers/static stabilizers (50) on a pier (16) of a bascule bridge, in order to

dampen impact vibrations caused by opening of said bascule bridge leaf. Wherein the buffer (50) is side-by-side between an end portion (38) overlying a bridge pier, and said bridge pier (16). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to dispose the static stabilizer of Fujimoto et al. between structural elements of a bascule bridge, as taught by Mooney et al., in order to prevent damage to said bridge structures. See Fig. 2; col. 2.

#### ***Allowable Subject Matter***

7. Claims 5-8, 10, 12-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

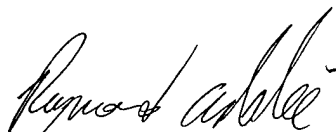
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Newton # 824,135 discloses a bascule bridge. Fyfe et al. # 4,187,573 discloses a static stabilizer for bridges. Sivachenko et al. # 4,706,319 discloses a bridge structure. Nedelcu # 4,751,758 discloses a bascule bridge. Fyfe et al. # 5,014,474 discloses a static stabilizer. Andra et al. # 5,466,068 discloses an articulated bearing for heavy loads. Fyfe # 5,597,240 discloses a structural bearing for isolating vibrations. Ishida # 6,249,925 B1 discloses a bridge with static stabilizers. Elcock et al # 5,920,938 discloses a method for repairing bridges.



9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond Addie whose telephone number is (571) 272-6986. The examiner can normally be reached on Monday-Saturday from 7:00 am to 2:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (571) 272-6998.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Raymond Addie**  
Patent Examiner  
Group 3600

RWA  
4/19/2005